

The Senate Transportation Committee offered the following substitute to HB 1135:

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 5 of Title 32 of the Official Code of Georgia Annotated, relating to the State Public Transportation Fund, so as to provide procedures for financing multiyear construction agreements; to provide for a definition; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 of Chapter 5 of Title 32 of the Official Code of Georgia Annotated, relating to the State Public Transportation Fund, is amended by adding a new Code section to read as follows:

"32-5-28.

(a) As used in this Code section, the term 'multiyear construction agreements' means any construction agreements for the building of projects which do not obligate present funds for the full amount of obligation the state may bear under the full term of the construction agreement.

(b) The department shall do all of the following with respect to multiyear construction agreements:

(1) Establish necessary management controls to facilitate the use of cash flow financing, such as establishment of a financial planning committee, development of a monthly financing report, establishment of appropriate fund cash level targets, review of revenue forecasting procedures, and reduction of accrued unbilled costs;

(2) Report annually, not later than October 1 of each year, to a joint meeting of the House and Senate Transportation Committees on its cash management policies and results;

(3) Provide any requested reports, data, or information that the Georgia State Financing and Investment Commission may request in order to set the multiyear contract value authority; and

27       (4) Submit annually a multiyear contract value authority request to the Georgia State  
28       Financing and Investment Commission.

29       (c) With regard to the department's procedures for awarding multiyear construction  
30       agreements, the Georgia State Financing and Investment Commission may establish a total  
31       multiyear contract value based upon the Governor's estimate of motor fuel tax funds for  
32       subsequent fiscal years and other information as the Georgia State Financing and  
33       Investment Commission may require. In setting the multiyear contract value authority, the  
34       Georgia State Financing and Investment Commission shall take into consideration the  
35       known and anticipated obligations of the department, including, but not limited to, any  
36       multiyear construction agreements the department has entered into previously. The  
37       Georgia State Financing and Investment Commission may set a total multiyear contract  
38       value authority for the department each fiscal year and may, during the fiscal year, revise  
39       such contract value authority as necessary as determined by the Georgia State Financing  
40       and Investment Commission. Any multiyear construction agreement entered into by the  
41       department that is not in compliance with the multiyear contract value authority set by the  
42       Georgia State Financing and Investment Commission shall be void and of no effect.

43       (d) The department shall maintain an available cash balance at the end of each month  
44       equal to at least 10 percent of the unpaid balance of the total multiyear construction  
45       agreement obligations. In the event this cash position is not maintained, no further  
46       multiyear construction agreement commitments shall be entered into until the cash balance  
47       has been regained. For the purposes of awarding contracts involving federal aid, any  
48       amount due from a binding federal government obligation as a result of unreimbursed  
49       expenditures may be considered as cash for the purposes of this subsection.

50       (e) At the beginning of each fiscal year, transportation project appropriations shall be  
51       encumbered for the estimated payments for multiyear construction agreement work to be  
52       performed in the appropriation fiscal year. The allotments shall be based on estimated  
53       revenues and shall be subject to the maximum contract value authority established by the  
54       Georgia State Financing and Investment Commission. Payment for multiyear construction  
55       agreements performed pursuant to contract in any fiscal year other than the current fiscal  
56       year shall be subject to appropriations by the General Assembly. Multiyear construction  
57       agreements shall contain a schedule of estimated completion progress, and any acceleration  
58       of this progress shall be subject to the approval of the department, provided funds are  
59       available. The department shall have the right to terminate without further obligation any  
60       multiyear construction agreement if the department determines that adequate funds will not  
61       be available for all of the payment obligations of the department. The department's  
62       determination regarding the availability of funds for its obligations shall be conclusive and  
63       binding on all parties to the contract. In the event of termination of any contract, the

64 contractor shall be given a written notice of termination at least 60 days before completion  
65 of scheduled work for which funds are available. In the event of termination, the contractor  
66 shall be paid for the work already performed in accordance with the contract specifications.

67 (f) The provisions of subsection (e) of this Code section shall be incorporated verbatim in  
68 all multiyear construction agreements.

69 (g) The provisions of this Code section shall not apply to multiyear construction  
70 agreements awarded by the department prior to July 1, 2010. No multiyear construction  
71 agreement shall be entered into under the provisions of this Code section until the Georgia  
72 State Financing and Investment Commission has established the total multiyear contract  
73 value authority for the current and future fiscal years and adopted such fiscal policies  
74 regarding multiyear construction agreements authorized under this Code section."

75 **SECTION 2.**

76 This Act shall become effective upon its approval by the Governor or upon its becoming law  
77 without such approval.

78 **SECTION 3.**

79 All laws and parts of laws in conflict with this Act are repealed.